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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/580,214	02/19/2008	Daniel Crespo-Dubie	K3831.0170/P170-PC	9829

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EXAMINER	
BIAGINI, CHRISTOPHER D	

ART UNIT	PAPER NUMBER
2442	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/580,214	CRESPO-DUBIE ET AL.	
	Examiner	Art Unit	
	Christopher Biagini	2442	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *18 February 2010*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-9* is/are pending in the application.

4a) Of the above claim(s) *8 and 9* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-7* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *23 May 2006* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *5/23/2006*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

This communication is in response to the Response to Restriction Requirement filed February 18, 2010. Applicant's election without traverse of Group I, claims 1-7, is acknowledged. Claims 1-9 are pending, with claims 8 and 9 withdrawn as being directed to a nonelected invention.

Priority

Applicant's claim for the benefit of a prior-filed application under 35 U.S.C. 119(e) or under 35 U.S.C. 120, 121, or 365(c) is acknowledged. Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 119(e) as follows:

The later-filed application must be an application for a patent for an invention which is also disclosed in the prior application (the parent or original nonprovisional application or provisional application). The disclosure of the invention in the parent application and in the later-filed application must be sufficient to comply with the requirements of the first paragraph of 35 U.S.C. 112. See *Transco Products, Inc. v. Performance Contracting, Inc.*, 38 F.3d 551, 32 USPQ2d 1077 (Fed. Cir. 1994).

The disclosure of the prior-filed application, Application No. 60/365,619, fails to provide adequate support or enablement in the manner provided by the first paragraph of 35 U.S.C. 112 for one or more claims of this application. For example, the prior-filed application lacks support for the feature "a conflicts specification manager for receiving specifications describing how to

resolve conflicts between said central server and said client server" as recited in claim 1, and the feature "providing specifications unit, wherein said specifications contain resolution rules for conflicts between inputs from said first and said second server devices" as recited in claim 5.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 5-7 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Although the claims recite a series of steps or acts to be performed, a statutory "process" under 35 U.S.C. 101 must (1) be tied to a particular machine or (2) transform underlying subject matter (such as an article or material) to a different state or thing. See p. 10 of *In re Bilski*, 545 F.3d 943, 88 U.S.P.Q.2d 1385 (Fed. Cir. 2008).

Regarding the first prong of the test, the claims are not tied to a particular machine. The claims as a whole are directed to a method for providing state based control. Although the claims nominally recite "server devices," these devices do not perform any of the claimed steps.

Regarding the second prong of the test, the claims clearly do not transform underlying subject matter to a different state or thing. Rather, the claims manipulate data.

Thus, because the claims are not tied to a particular machine and do not transform underlying subject matter, the claims do not meet the requirements of 35 U.S.C. 101.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pub. No. 2003/0105854 to Thorsteinsson et al. (hereinafter "Thorsteinsson") in view of US Pub. No. 2003/0056012 to Modeste et al. (hereinafter "Modeste"), and further in view of European Patent Application EP 1 089 180 to Hayashi et al. (hereinafter "Hayashi").

Regarding claim 1, Thorsteinsson shows a home control system comprising:

- a central server *(central portal 110: see Fig. 1 and [0055])*;
- a client intermediary located in a home *(gateway device 112: see Fig. 1 and [0054])*;
- a plurality of home nodes connected to the client intermediary *(e.g., nodes 113: see [0051] and [0053])*;
- a conflicts manager *(e.g., the mechanism which implements conflict resolution: see Fig. 15, [0072], and [0080])* for receiving inputs from said central server *(e.g., scheduled events or inputs from a user using the central portal: see Figs. 4 and 8, [0086], and [0104])* and said client intermediary *(e.g., inputs from a user at a client site: see Fig. 9 and [0106])*; and

- wherein said conflicts manager applies logic in order to resolve conflicts based on said central server inputs and said client intermediary inputs *(e.g., the conflict resolution logic: see Fig. 15, [0072], and [0080])*.

Thorsteinsson does not explicitly show:

- that the client intermediary is a server;
- a conflicts specification manager for receiving specifications describing how to resolve conflicts between said central server and said client server; and
- wherein said conflicts manager applies said specifications in order to resolve the conflicts.

Modeste shows a home control system where a client intermediary is a client server (*Gateway 30: see Fig. 1 and [0036]*). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of Thorsteinsson to use a client server as taught by Modeste in order to relieve the central server from having to manage the home nodes directly.

Hayashi shows a conflict specification manager for receiving specifications describing how to resolve conflicts *(e.g., the component of policy manager 2 which receives policy data: see Figs. 1 and 5, [0014], [0020], and [0024])*, and wherein a conflict manager *(e.g., policy application operation section 42)* applies said specifications in order to resolve conflicts based on different inputs *(see Fig. 3 and [0029])*. It would have been obvious to one of ordinary skill in the art to further modify the system of Thorsteinsson to use a specification-based conflict resolution system as taught by Hayashi in order to provide more flexibility for users to specify how conflicts should be resolved.

Regarding claim 2, the combination shows the limitations of claim 1 as applied above, and further shows wherein said inputs comprise server activities *(e.g., scheduled events or inputs from a user using the central portal: see Thorsteinsson, Figs. 4 and 8, [0086], and [0104])* and client activities *(e.g., inputs from a user at a client site: see Thorsteinsson, Fig. 9 and [0106])*.

Regarding claim 3, the combination shows the limitations of claim 1 as applied above, and further shows conflict manager manager which controls said conflict manager for a plurality of client homes *(e.g., note that policy manager 2 provides policy data to multiple policy application operation sections: see Hayashi, [0015]-[0017])*. See also paragraph [0053] of Thorsteinsson, which describes that the system controls multiple client sites.

Regarding claim 4, the combination shows the limitations of claim 2 as applied above, and further shows wherein said conflict manager synchronizes said server activities and client server activities and sets a state for said home control system based on said resolved conflicts *(e.g., by issuing the command that wins the conflict resolution process: see [0073] of Thorsteinsson and [0029] of Hayashi)*.

Regarding claim 5, Thorsteinsson shows a method for providing state based control comprising:

- receiving activity inputs from a first server device *(e.g., scheduled events or inputs from a user using the central portal: see Figs. 4 and 8, [0086], and [0104])*;
- obtaining activity inputs from a second device *(e.g., inputs from a user at a client site: see Fig. 9 and [0106])*;
- comparing said first inputs to said second inputs in order to determine whether or not a conflict exists *(see Fig. 15, [0072], and [0080])*;
- resolving a conflict *(e.g., by executing the conflict resolution process: see Fig. 15, [0072], and [0080])*; and
- re-synchronizing said first server device and said second server device based upon said resolution (*e.g., by issuing the command that wins the conflict resolution process: see [0073])*.

Thorsteinsson does not explicitly show:

- that the second device is a server;
- providing specifications unit, wherein said specification contain resolution rules for conflicts between said first and said second server devices; and
- that the conflict is resolved by applying said specifications.

Modeste shows a home control system where a client intermediary is a server *(e.g, gateway 30: see Fig. 1 and [0036]*). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of Thorsteinsson to use a client server as taught by Modeste in order to relieve the central server from having to manage the home nodes directly.

Hayashi shows a specifications unit for receiving specifications which contain resolution rules for conflicts between first and second inputs *(e.g., the component of policy manager 2 which receives policy data: see Figs. 1 and 5, [0014], [0020], and [0024])*, and applying said specifications in order to resolve conflicts based on different inputs *(see Fig. 3 and [0029])*. It would have been obvious to one of ordinary skill in the art to further modify the system of Thorsteinsson to use a specification-based conflict resolution system as taught by Hayashi in order to provide more flexibility for users to specify how conflicts should be resolved.

Regarding claim 6, the combination shows the limitations of claim 5 as applied above, and further shows wherein said first and second inputs represent commands for physical devices located in a home *(e.g., appliances and other devices: see Thorsteinsson, [0051])*.

Regarding claim 7, the combination shows the limitations of claim 6 as applied above, and further shows wherein said conflict is determined based upon said inputs comprising multiple commands for the same physical device *(e.g., a thermostat: see Thorsteinsson, [0107])*.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Biagini whose telephone number is (571) 272-9743. The examiner can normally be reached on weekdays from 8:30 AM to 5:00 PM..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar can be reached on (571) 272-4006. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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